

Honolulu, Hawaii

MAR 17 2008

RE: H.B. No. 2254  
H.D. 2  
S.D. 1

Honorable Colleen Hanabusa  
President of the Senate  
Twenty-Fourth State Legislature  
Regular Session of 2008  
State of Hawaii

Madam:

Your Committee on Commerce, Consumer Protection, and Affordable Housing, to which was referred H.B. No. 2254, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO BANKS AND FINANCIAL INSTITUTIONS,"

begs leave to report as follows:

The purpose of this measure is to protect the general public from deceptive marketing practices by prohibiting the deceptive use of the name or trademark of a financial institution in marketing or solicitation practices.

Specifically, this measure:

- (1) Prohibits the deceptive use of the name or trademark of a financial institution or its affiliates or subsidiaries when marketing or soliciting existing or prospective customers if:
  - (A) The marketing materials are used without the written permission of the financial institution; and
  - (B) The marketing materials are used in a manner that would lead a reasonable person to believe that the material or solicitation originated from the financial institution; and



- (2) Authorizes a civil penalty of up to \$10,000 for each violation.

Testimony in support of this measure was submitted by the Department of Commerce and Consumer Affairs, the Hawaii Credit Union League, the Mortgage Bankers Association of Hawaii, the Hawaii Financial Services Association, and the Hawaii Bankers Association.

With increasing frequency, out-of-state lenders are sending direct mail solicitations for refinance opportunities that prominently list the existing lender in a manner that the recipients are led to erroneously believe that their lenders are sending important notices. The solicitations contain phrases, such as "Time Sensitive Material" and "Payment Reduction Notice," that make the recipient more apt to read the material. Only after carefully reading the literature or calling the listed phone number is it apparent that this is a refinance solicitation from a different lender. Your Committee finds that prohibiting the deceptive use of the name or trademark of a financial institution or its affiliates or subsidiaries in marketing or solicitation practices without the consent of the financial institution, and establishing a civil penalty of \$10,000 per violation will serve to deter these deceptive practices.

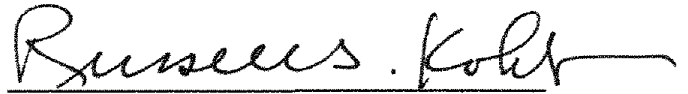
Your Committee has amended this measure by changing the effective date of this measure from July 1, 2112 to effective upon its approval.

Your Committee believes that this measure, as amended, fulfills the intent of this measure, which is to protect the general public from deceptive marketing practices.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Affordable Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2254, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2254, H.D. 2, S.D. 1, and be referred to the Committee on Judiciary and Labor.



Respectfully submitted on  
behalf of the members of the  
Committee on Commerce, Consumer  
Protection, and Affordable  
Housing,

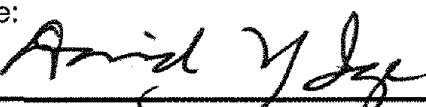


RUSSELL S. KOKUBUN, Chair



The Senate  
Twenty-Fourth Legislature  
State of Hawaii

**Record of Votes**  
**Committee on Commerce, Consumer Protection and Affordable Housing**  
**CPH**

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 2254 HDZ	CPH, JDL	3/11/08		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KOKUBUN, Russell S. (C)	✓			
IGE, David Y. (VC)	✓			
ESPERO, Will	✓			
IHARA, Jr., Les	✓			
SAKAMOTO, Norman	✓			
TANIGUCHI, BRIAN T.				✓
TRIMBLE, Gordon	✓			
<b>TOTAL</b>	6			1
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original	Yellow	Pink	Goldenrod	
File with Committee Report	Clerk's Office	Drafting Agency	Committee File Copy	

\*Only one measure per Record of Votes